

HUMAN SERVICES DEPARTMENT[441]

Adopted and Filed

Pursuant to the authority of Iowa Code section 234.6, the Department of Human Services amends Chapter 158, “Foster Home Insurance Fund,” Iowa Administrative Code.

These amendments update 441—Chapter 158 to conform to statutory changes made by 2011 Iowa Acts, Senate File 482. Division II of that legislation amended Iowa Code section 237.13, foster home insurance fund, to:

- Strike language referring to a guardian appointed on a voluntary petition pursuant to Iowa Code section 232.178 or a voluntary petition of a ward pursuant to Iowa Code section 633.557 and a conservator appointed on a voluntary petition of a ward pursuant to Iowa Code section 633.572 for purposes of defining a “foster home.”
- Strike language pertaining to guardians and conservators receiving payment from the fund for legal fees incurred in defending against a suit filed by a ward or the ward’s representative and damages awarded as a result of the suit.

These amendments remove corresponding language from the rules and update references. These changes will reserve coverage for licensed foster parents associated with the Department’s family foster care program.

Notice of Intended Action for these amendments was published in the Iowa Administrative Bulletin on July 27, 2011, as **ARC 9636B**. The Department received no comments on the Notice of Intended Action. These amendments are identical to those published under Notice of Intended Action.

The Council on Human Services adopted these amendments on September 14, 2011.

These amendments do not provide for waivers in specified situations because the Department has no authority to waive statutory provisions. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 237.13 as amended by 2011 Iowa Acts, Senate File 482, division II.

These amendments shall become effective on November 9, 2011.

The following amendments are adopted.

ITEM 1. Rescind and reserve subrule **158.1(2)**.

ITEM 2. Amend rule 441—158.2(237) as follows:

441—158.2(237) Payment limits. The fund is not liable for the first \$100 for all claims arising out of one or more occurrences during a fiscal year related to a single foster home. The fund is not liable for ~~claims~~ damages in excess of \$300,000 for all claims ~~based on~~ arising out of one or more occurrences during a fiscal year related to a single home.

ITEM 3. Amend rule 441—158.4(237) as follows:

441—158.4(237) Time frames for filing claims.

1. **158.4(1)** Claims by children who were under the age of 18 at the time of the occurrence shall be submitted within two years of the date of the occurrence; or after the child’s eighteenth birthday, but before the child’s nineteenth birthday.

2. **158.4(2)** Claims by persons who were aged 18 or older at the time of the occurrence, ~~parents, foster parents, guardians, or guardians ad litem~~ shall be submitted within two years of the occurrence.

3. **158.4(3)** Claims by foster parents ~~and by guardians or conservators~~ pursuant to ~~subrules~~ paragraph 158.1(1) “c” ~~and 158.4(2)~~ for legal fees or court-ordered judgments shall be submitted within two years of the date of the judgment.

ITEM 4. Amend **441—Chapter 158**, implementation sentence, as follows:
These rules are intended to implement Iowa Code section 237.13 as amended by 2011 Iowa Acts, Senate File 482, division II.

[Filed 9/14/11, effective 11/9/11]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 10/5/11.